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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,693	12/13/2000	David C. Campbell	066516.0116	7825

7590 09/30/2004

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EXAMINER

PALADINI, ALBERT WILLIAM

ART UNIT PAPER NUMBER

2125

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/736,693

Applicant(s)

CAMPBELL ET AL.

Examiner

Albert W Paladini

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/11/03, 7/25/03.

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- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. Please update information to the "CROSS REFERENCE TO RELATED APPLICATIONS" on page 1 of the specification.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-67 of U.S. Patent No. 6,643,837. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Base claim 1 of the instant application contains the basic limitations of claim 23 of US Patent 6,643,837. The user is not recited in 6,643,837, but the processing of "accessing a route plan" implies a "user."

Base claim 26 of the instant application contains the basic limitations of claim 46 of US Patent 6,643,837. "Receiving input" is not recited in 6,643,837, but the processing of "accessing a route plan" implies a "receiving input."

The added limitations of dependent claims 2-25 and 27-36 of the instant application may be found permutated in claims 2-22, 24-45, and 47-67 of US Patent 6,643,837.

#### ***Relevant Prior Art***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rosu (5359649) discloses a system for optimizing traffic carrying capabilities of telecommunications circuits by adapting to changes in the number of routes needed after the design, and changes resulting from changing traffic pattern requirements.

Nakatsugawa (6131124) discloses a data communications method where in the preferred embodiment of the present invention, the appropriate routes selecting step comprises the step of: selecting routes of other network as the destination of the communication data by the relay units if it is decided as the comparison/decision result that the own address is included in the route addresses, so as to transmit the communication data to the node terminal designated as the destination via the selected routes of other network.

Matsumoto (6295634) discloses a wiring design method and apparatus where the user effects an input operation to a client computer, the CAD software of the client computer designs a circuit of a semiconductor chip in response to the operation by the user, prepares design information indicating a pin disposition of a semiconductor package, disposition of bonding pads of a semiconductor chip, and connecting relationship between the bonding pads of the semiconductor chip and the pins of the semiconductor package, and sends it to a server

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computer via a communication channel. A route selecting means for selecting a partial route such that a cumulative sum of multiplication of the length of each of said partial route by a weighting coefficient set to each of the edge of said triangle crossing each of said partial route is minimized.

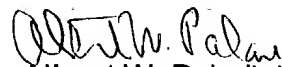
Saito (JP0200205767A) discloses a communications network design method which optimizes route selection by calculating constrain terms based upon link band requirements required for each traffic link.

5. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Albert W. Paladini whose telephone number is (703) 308-2005. The examiner can normally be reached from 7:30 to 3:30 PM on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard, can be reached on (703) 308-0538. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

September 29, 2004

  
Albert W. Paladini  
Primary Examiner  
Art Unit 2125

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